

The Honorable Richard A. Jones

UNITED STATES DISTRICT COURT FOR THE  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE

UNITED STATES OF AMERICA,  
Plaintiff,

v.

ANGELO RALPHEL GUTIERREZ,  
Defendant.

NO. 2:17-cr-00281-RAJ

ORDER DENYING DEFENDANT'S  
MOTION FOR COMPASSIONATE  
RELEASE WITHOUT PREJUDICE

THIS MATTER comes before the Court on Defendant Angelo Ralphe Gutierrez's *pro se* motion for compassionate release. Dkt. 63. Having considered the parties' briefing to date and the relevant record, the Court hereby **DENIES** the motion without prejudice.

To permit a court to exercise its discretion to reduce a sentence, a defendant first has the burden of establishing that the exhaustion requirement has been met. *United States v. Van Sickle*, 2020 WL 2219496, at \*3 (W.D. Wash. May 7, 2020) (citing cases). *See also* 18 U.S.C. § 3582(c)(1)(A).

There is no evidence Mr. Gutierrez has satisfied this exhaustion requirement. He states in his motion that he "filed for compassionate release at this prison and was denied." Dkt. 63. However, Mr. Gutierrez does not provide evidence in the form a copy of his request nor the warden's response. The government indicates it has communicated with George Cho, legal counsel for the Bureau of Prisons, who reported on September 10, 2020, that "[t]here is still no record of any compassionate release request within the BOP [Reduction in Sentence] database" for the defendant. Dkt. 66.

1 As there is no evidence before this Court that the statutory exhaustion requirement  
2 has been met, Mr. Gutierrez's motion is **DENIED** without prejudice.

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4 DATED this 22nd day of October, 2020.

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7 The Honorable Richard A. Jones  
8 United States District Judge  
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